

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHERYL BAIR, ) CASE NO. 2:19-cv-00998-BJR  
Plaintiff )  
v. ) ORDER GRANTING PLAINTIFF'S  
SNOHOMISH COUNTY, et al., ) MOTION FOR LEAVE TO FILE  
Defendants, ) SECOND AMENDED COMPLAINT

Before the Court is Plaintiff's Motion for Leave to File Second Amended Complaint. Dkt. No. 22. Through her motion, Plaintiff seeks to add previously undetermined defendants and two new causes of action one for Equal Protection and one for negligence. Defendants do not oppose the motion as far as it seeks to add new defendants or a cause of action for Equal Protection. Dkt. No. 24. Defendants do object to the addition of a state law negligence claim arguing that it is futile as Plaintiff failed to file a claim for damages before initiating suit, as required by RCW § 4.96. *Id.* at 5–7. As Plaintiff has now filed such a form, Defendants contend that the proper course is for her to voluntarily dismiss the current action and refile. *Id.* at 6–7. Plaintiff responds both that RCW § 4.96 applies only to state tort claims, and is thus inapplicable to her federal-based claims here alleged, and that forcing her to refile or file a separate negligence action is impractical. Dkt.

1  
2 No. 26.  
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4 Federal Rule of Civil Procedure 15 provides that courts should “freely give leave [to amend  
5 pleadings] when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Ninth Circuit has confirmed  
6 that this rule is to be applied with “extreme liberality” in favor of granting amendments. *United  
7 States v. Webb*, 655 F.2d 977, 979 (9th Cir. 1981) (quoting *Rosenberg Bros. & Co. v. Arnold*, 283  
8 F.2d 406, 406 (9th Cir. 1960)); *see also Hoang v. Bank of Am., N.A.*, 910 F.3d 1096, 1102 (9th  
9 Cir. 2018).

10 The parties dispute the efficacy of Plaintiff’s efforts to comply with RCW § 4.96.  
11 Resolution of this issue is best reserved for a motion to dismiss with attendant briefing.

12 The Court is unpersuaded that the delay in adding the new claims contained in Plaintiff’s  
13 Second Amended Complaint prejudices Defendants.

14 For the foregoing reasons, the Court hereby GRANTS Plaintiff’s Motion for Leave to File  
15 Second Amended Complaint in its entirety.

16 DATED this 18<sup>th</sup> day of Feb., 2019.

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19 BARBARA J. ROTHSTEIN  
20 UNITED STATES DISTRICT JUDGE  
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